

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ROYAL APPLIANCE
MANUFACTURING CO., d/b/a TTI
FLOOR CARE NORTH AMERICA
7005 Cochran Rd.
Glenwillow, Ohio 44139-4303

and

TECHTRONIC INDUSTRIES CO. LTD.,
24/F, CDW Building
388 Castle Peak Road
Tsuen Wan, NT
Hong Kong

Plaintiffs,

v.

FELLOWES, INC.
1789 Norwood Avenue
Itasca, Illinois 60143-1095

Defendant.

CASE NO. 1:11-cv-1276

JUDGE

MAGISTRATE JUDGE

**COMPLAINT FOR DECLARATORY
JUDGMENT**

For their Complaint for Declaratory Judgment against Defendant Fellows, Inc. (“Fellowes”), Plaintiffs Royal Appliance Manufacturing Co., d/b/a TTI Floor Care North America (“Royal”) and Techtronic Industries Co. Ltd. (“TTI”)(collectively, “Plaintiffs”) allege:

PARTIES

1. Royal, a subsidiary of TTI, is an Ohio corporation with its principal place of business in Glenwillow, Ohio.

2. TTI is a Hong Kong corporation with its principal place of business in Tsuen Wan, New Territories, Hong Kong.

3. Defendant Fellowes, on information and belief, is an Illinois corporation with its principal place of business in Itasca, Illinois.

4. This Complaint seeks declaratory relief under the Declaratory Judgment Act, Title 28, United States Code, Sections 2201 and 2202. This Court has subject matter jurisdiction of the claims asserted thereunder by reason of Title 28, United States Code, Sections 1331 and 1338(a).

5. Venue is proper under 28 U.S.C. §§ 1391(b) and (c). Fellowes regularly conducts business in this District, and its actions at issue in this case were designed to cause harm to Plaintiffs in this District.

FACTS COMMON TO ALL COUNTS

6. Plaintiffs, among other things, design, manufacture and sell shredders for use in the disposal of paper, other paper products, compact discs and like materials.

7. On information and belief, among other things, Fellowes also designs, manufactures and sells shredders for use in the disposal of paper, other paper products, compact discs and like materials.

8. On or about November 3, 2010, Fellowes sent a letter to TTI and Techtronic Appliances (Hong Kong) Ltd., accusing them of infringing U.S. Patent No. 7,631,822 (the “’822 Patent”). In the letter, Fellowes also states that “[s]imilarly [sic] continuation applications are pending on the ’822 patent and several of its foreign counterparts.” In the letter, Fellowes

expressly reserves its rights to seek monetary damages and other relief for the alleged infringement. A copy of Fellowes' November 3, 2010, letter is attached as Exhibit 1.

9. Among the then-pending continuation patent applications based on the '822 patent was U.S. Patent Application Serial No. 12/616,567. On June 21, 2011, that patent application issued as U.S. Patent No. 7,963,468 (the "'468 Patent").

10. Plaintiffs market and sell the shredders Fellowes accuses of infringing the '468 Patent to a retail customer that sells them in the United States and elsewhere. Accordingly, Fellowes' threatened infringement action threatens harm to Plaintiffs.

COUNT ONE

(Declaratory Judgment of Invalidity of the '468 Patent)

11. Plaintiffs incorporate by reference paragraphs 1 - 10 of this Complaint.

12. An actual controversy exists between Plaintiffs and Fellowes over the validity of the '468 Patent.

13. The '468 Patent is invalid for failure to comply with the requirements of Part II of Title 35 of the United States Code, including but not limited to §§ 101, 102, 103 and 112.

COUNT TWO

(Declaratory Judgment of Non-Infringement of the '468 Patent)

14. Plaintiffs incorporate by reference paragraphs 1 - 13 of this Complaint.

15. An actual controversy exists between Plaintiffs and Fellowes over alleged infringement of the '468 Patent.

16. Plaintiffs have not infringed any valid claim of the '468 Patent.

WHEREFORE, Plaintiffs pray that this Court:

A. Declare that the claims of the '468 Patent are invalid;

- B. Declare that Plaintiffs have not infringed any valid claims of the '468 Patent;
- C. Grant judgment for Plaintiffs for their costs and attorneys fees;
- D. Grant such other and further relief that this Court deems just.

/s/ Michael J. Garvin

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Industries Co. Ltd., Plaintiffs.